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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ENRIQUE PERALTA,

Defendant and Appellant.

B214033

(Los Angeles County
Super. Ct. No. BA342830)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Barbara R. Johnson, Judge. Affirmed.

Judy Fridkis, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Enrique Peralta appeals from the judgment entered following a jury trial in which he was convicted in count 2, of inflicting corporal injury on a cohabitant (Pen. Code, § 273.5, subd. (a)) with the true finding that during the commission of the offense, he personally inflicted great bodily injury upon the victim within the meaning of Penal Code section 12022.7, subdivision (e), and in count 3 of making a criminal threat (Pen. Code, § 422.)¹ He was sentenced to prison for five years and eight months, consisting of the low term of two years, plus three years for the great bodily injury enhancement in count 2, plus one-third the middle term of two years, or eight months, consecutive, for count 3.

Appellant's *Marsden*² motion was heard and denied.

The People's motion to admit evidence of prior acts of domestic violence pursuant to Evidence Code sections 1109 and 1101, subdivision (b) was granted.

The evidence at trial established that in 2007, appellant and Yolanda M. had a romantic relationship and lived together in a home on 11th Street in Los Angeles for approximately seven months. In June 2007, the couple had an argument and appellant choked Yolanda M. and bit her in the chest area. He told her he would kill her if she left him. She made a police report regarding the incident.

By November 6, 2007, appellant had moved out of the home. During that evening, appellant came to the home and asked to speak to Yolanda M. When appellant tried to enter the home, she hit him on the forearm with a baseball bat. Yolanda M. was arrested.

On December 17, 2007, during the early morning hours, appellant came to Yolanda M.'s home, broke a window, and threatened to kill her if she left him. He

¹ He was found not guilty of attempted murder charged in count 1 (Pen. Code, §§ 664/187, subd. (a)), and the allegations that during the commission of the crimes in counts 2 and 3 he personally used a deadly weapon, to wit, a knife, within the meaning of Penal Code section 12022, subdivision (b)(1) were found to be not true.

² *People v. Marsden* (1970) 2 Cal.3d 118.

returned later in the day and threatened her again. She again reported the incident to the police.

On May 19, 2008, at approximately 11:00 a.m., appellant came to the house and “got aggressive.” When Yolanda M. told him she did not want to get back together with him, he went to the kitchen and got a knife. Appellant told her he was not going to leave her alone and that he was going to go to jail. He said that if he was going to go to jail, it was going to be because she “was going to be very dead.” When appellant tried to stab Yolanda M. in the stomach with the knife, she grabbed the knife, cutting her hand. After throwing the knife down, appellant placed his hands around her neck and tried to choke her. She suffered scratches on her face, bruises on her shoulders and neck, and a cut on her hand. At the time of trial, she still had a scar from the cut.

In defense, appellant testified that he never choked or stabbed Yolanda M. and never threatened to kill her. She had threatened appellant with the knife and when he tried to take it from her, she pulled it, cutting herself.

After review of the record, appellant’s court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On September 14, 2009, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied that no arguable issues exist and that appellant has, by virtue of counsel’s compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment is affirmed.

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WILLHITE, Acting P.J.

We concur:

MANELLA, J.

SUZUKAWA, J.